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FILED: 1-5-10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICALDEN INVESTMENTS S.A., :
:
Plaintiff, :
:
- against - :
:
OLGA ROSTROPOVICH, COOLEY :
GODWARD KRONISH LLP, RENEE :
SCHWARTZ, ATOOSA P. MAMDANI, :
and MAHMOUD A. MAMDANI, :
:
Defendants. :
----- X

CONDITIONAL
ORDER OF DISCONTINUANCE
WITHOUT PREJUDICE

VICTOR MARRERO, United States District Judge.

Counsel on behalf of the parties, having notified the Court, at the telephone conference with the parties on January 5, 2010, that the parties' related state court proceeding has not yet reached a resolution of the underlying dispute, that the parties disagree on whether or not the final disposition of the state litigation will render moot any further proceedings in the case before this Court, and that they consent to the issuance of this Order, it is hereby

ORDERED, that this action be conditionally discontinued without prejudice and without costs; provided, however, that within one hundred eighty (180) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline

indicated the state court action has not resulted in a resolution of this case. Upon such notification, the defendants shall continue to be subject to the Court's jurisdiction, and by their consent to the entry of this Order shall be deemed to have waived asserting any new defenses based on statutes of limitations. The Court shall then promptly reinstate the action and any pending motions to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within ten days of the plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

Any further conferences with the Court scheduled in this action are canceled but shall be scheduled as set forth above in the event plaintiff notifies the Court that any resolution of the parties' state court proceeding did not render this action moot and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to withdraw any pending motions and to withdraw any pending motions and to close this case.

SO ORDERED.

Dated: NEW YORK, NEW YORK
5 January 2010



VICTOR MARRERO
U.S.D.J.